

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CANDACE SMITH,

Plaintiff,

v.

GEORGE BROWN FITNESS, et al.,

Defendants.

Case No. 1:24-cv-01561 JLT SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
THE ACTION WITHOUT PREJUDICE,
AND DIRECTING THE CLERK OF
COURT TO CLOSE THIS CASE

(Doc. 5)

Candace Smith seeks to hold the defendants liable for racial profiling, sexual harassment, and for an injury suffered while using a jacuzzi sauna. (*See generally* Doc. 1.) Because Plaintiff is proceeding *in forma pauperis*, the assigned magistrate judge screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2). (Doc. 5.) The magistrate judge found the Court lacks diversity jurisdiction, because all identified defendants are citizens of California. (*Id.* at 4.) In addition, the magistrate judge determined the Court lacks subject matter jurisdiction, because "Plaintiff fails to specify a federal statute or constitutional doctrine that gives rise to her claims" and any claim related to the jacuzzi sauna arises under state tort law. (*Id.* at 5.) The magistrate judge also found amendment should not be permitted, because Plaintiff was well-advised of the applicable pleading standards yet still failed to allege sufficient facts. (*Id.* at 6-7.) Therefore, the magistrate judge recommended the Court dismiss the action "without prejudice for lack of subject matter jurisdiction." (*Id.* at 7.)

The Court served the Findings and Recommendations on Plaintiff and notified her that any

1 objections were due within 14 days. (Doc. 5 at 7.) The Court advised Plaintiff that the “failure to file
2 objections within the specified time may result in the waiver of rights on appeal.” (*Id.* at 8, citing
3 *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the
4 time to do so expired.

5 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
6 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations are
7 supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 8 1. The Findings and Recommendations dated January 23, 2025 (Doc. 5) are **ADOPTED** in
9 full.
- 10 2. This action is **DISMISSED** without prejudice.
- 11 3. The Clerk of Court is directed to close this case.

12
13 IT IS SO ORDERED.

14 Dated: **February 13, 2025**


UNITED STATES DISTRICT JUDGE